

AMENDED IN ASSEMBLY MAY 19, 2010
AMENDED IN SENATE JANUARY 15, 2010

SENATE BILL

No. 414

Introduced by Senator Correa

February 26, 2009

An act to amend Sections 31520.1, 31520.2, 31520.3, *31520.4*, and 31520.5 of, to add Section 31523.1 to, and to repeal and add Section 31523 of, the Government Code, relating to county retirement.

LEGISLATIVE COUNSEL'S DIGEST

SB 414, as amended, Correa. County employee retirement: boards.

(1) The County Employees Retirement Law of 1937 sets forth the membership composition for boards of retirement, as specified. Under that law, the retirement board in specified counties is comprised of 9 members and an alternate member who is the candidate for the 7th member from the group of safety members, under specified provisions, that is not represented by a board member who received the highest number of votes for all candidates in that group, except as specified. The alternate member has, unless prohibited by a resolution or regulation of the board, the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, and 8th member and the right to hold positions on committees of the board independent of the 2nd, 3rd, 7th, or 8th member and to participate in the deliberations of the board or its committees, as specified.

This bill would delete the authority of the board to prohibit, by a resolution or regulation of the board, a member from having the same rights, privileges, responsibilities, and access to closed sessions as the 2nd, 3rd, 7th, or 8th member, or from holding positions on committees of the board, and participating in board or committee deliberations, as

described above. *The bill would authorize the alternate 7th member to participate in the deliberations of the board on any of its committees to which the alternate 7th member has been appointed regardless of whether the 2nd, 3rd, 7th, or 8th member is present.* The bill would ~~direct~~ require the board of supervisors to hold cause an election to be held at the earliest possible date to fill a vacancy for the duration of the current term, except as specified, ~~within 90 days of the date the vacancy occurs~~ if there is a vacancy in the 2nd, 3rd, 7th, 8th, or alternate 7th member ~~positions~~ position. It would limit candidacy to the 7th member and alternate member positions, as specified. The bill would require the board of supervisors to ~~forego~~ forgo an election in specified circumstances when there is only one candidate. The bill would also make various changes in terminology and delete obsolete references.

(2) Existing law prescribes the manner of appointing an alternate retired member to the office of the 8th member of the board of retirement. If there is a vacancy with respect to the 8th member, existing law requires that the alternate retired member fill the vacancy until a successor qualifies. Existing law authorizes the alternate retired member to hold positions on committees of the board independent of the 8th member and to participate in the deliberations of the board or its committees regardless of whether the 8th member is present, unless prohibited by resolution or regulation of the board.

This bill would instead require the board of retirement to, by majority vote, appoint a replacement alternate member, in the same manner as prescribed for the initial appointment of an alternate retired member, who shall serve until the expiration of the current term of the current member. The alternate retired member would have the same rights, privileges, responsibilities, and access to closed sessions as the 8th member *except as specified*. The bill would also delete the authority of the board to prohibit the alternate retired member from holding positions on committees of the board or participating in the deliberations of the board or *any of its committees to which the alternate retired member has been appointed*, as described above. The bill would also make changes in terminology.

(3) Existing law permits the board of supervisors in a county in which the assets of the retirement system exceed \$800,000,000 to establish a board of investments, to consist of 9 members of specified classifications, which is responsible for the investments of the retirement system. Existing law prescribes the terms for the members of the board of investments.

This bill would prescribe a process for filling vacancies in specified positions on a board of investments, as described above. The bill would require the board of investments to ~~hold~~ *cause an election to be held at the earliest possible date to fill a vacancy within 90 days of the date the vacancy occurs* those vacancies, except as specified, with a replacement member to serve for the duration of the current term, unless the remaining portion is 6 months or less, in which case concurrent elections would be authorized to be held for the vacant term position and the succeeding term position. The bill would require the board of supervisors to ~~forego~~ *forgo* an election in specified circumstances when there is only one candidate. The bill would also delete obsolete references and establish the initial term of a person appointed as a 9th member.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31520.1 of the Government Code is
2 amended to read:
3 31520.1. (a) In any county subject to Articles 6.8 (commencing
4 with Section 31639) and 7.5 (commencing with Section 31662.2),
5 the board of retirement shall consist of nine members and one
6 alternate, one of whom shall be the county treasurer. The second
7 and third members of the board shall be members of the
8 association, other than safety members, elected by those members
9 within 30 days after the retirement system becomes operative in
10 a manner determined by the board of supervisors. The fourth, fifth,
11 sixth, and ninth members shall be qualified electors of the county
12 who are not connected with the county government in any capacity,
13 except one may be a supervisor, and shall be appointed by the
14 board of supervisors. A supervisor appointed as a member of the
15 retirement board may not serve beyond his or her term of office
16 as supervisor. The seventh member shall be a safety member of
17 the association elected by the safety members. The eighth member
18 shall be a retired member elected by the retired members of the
19 association in a manner to be determined by the board of
20 supervisors. The alternate member shall be that candidate, if any,
21 for the seventh member from the group under Section 31470.2 or
22 31470.4, or any other eligible safety member in a county if there

1 is no eligible candidate from the groups under Sections 31470.2
2 and 31470.4, which is not represented by a board member who
3 received the highest number of votes of all candidates in that group,
4 and shall be referred to as the alternate seventh member. If there
5 is no eligible candidate there may not be an alternate seventh
6 member. The first person chosen as the second and fourth members
7 shall serve for a term of two years beginning with the date the
8 system becomes operative, the third and fifth members shall serve
9 for a term of three years beginning with that date, and the sixth,
10 seventh and alternate seventh members shall serve for a term of
11 two years beginning on the date on which a retirement system
12 established by this chapter becomes operative. The eighth and
13 ninth members shall take office as soon as practicable for an initial
14 term to expire concurrent with the expiration of the longest
15 remaining term of an elected member. Thereafter, the terms of
16 office of the elected, appointed, and alternate seventh members
17 are three years, except as provided in Section 31523.

18 (b) The alternate seventh member provided for by this section
19 shall vote as a member of the board only if the second, third,
20 seventh, or eighth member is absent from a board meeting for any
21 cause, or if there is a vacancy with respect to the second, third,
22 seventh, or eighth member, the alternate seventh member shall fill
23 the vacancy until a successor qualifies. The alternate seventh
24 member shall sit on the board in place of the seventh member if a
25 member of the same service is before the board for determination
26 of his or her retirement.

27 (c) The alternate seventh member shall be entitled to both of
28 the following:

29 (1) The alternate seventh member shall have the same rights,
30 privileges, responsibilities, and access to closed sessions as the
31 second, third, seventh, and eighth member.

32 (2) The alternate seventh member may hold positions on
33 committees of the board independent of the second, third, seventh,
34 or eighth member and may participate in the deliberations of the
35 board ~~or its committees~~ *any of its committees to which the alternate*
36 *seventh member has been appointed* whether or not the second,
37 third, seventh, or eighth member is present.

38 SEC. 2. Section 31520.2 of the Government Code is amended
39 to read:

31520.2. (a) In any county in which the assets of the retirement system exceed eight hundred million dollars (\$800,000,000), the board of supervisors may, by resolution, establish a board of investments. The board shall consist of nine members, one of whom shall be the county treasurer. The second and third members shall be general members of the association elected by the general membership of the association for a three-year term. The fourth member shall be a safety member elected by the safety membership of the association for a three-year term. The eighth member shall be a retired member of the association elected by the retired membership of the association for a three-year term. The fifth, sixth, seventh, and ninth members shall be qualified electors of the county who are not connected with county government in any capacity, and shall be appointed by the board of supervisors. They shall also have had significant experience in institutional investing, either as investment officer of a bank, or trust company; or as investment officer of an insurance company, or in an active, or advisory, capacity as to investments of institutional or endowment funds. The first person chosen as a fifth, sixth, or seventh member, shall serve for a three-year term, the second person chosen shall serve a four-year term, and the third person chosen shall serve a two-year term. The first person appointed as the ninth member shall serve a one-year term. Thereafter, all terms of all appointed members shall be three years.

(b) The board of investment shall be responsible for all investments of the retirement system.

SEC. 3. Section 31520.3 of the Government Code is amended to read:

31520.3. (a) Notwithstanding Section 31520.1, the board of retirement of a county of the 16th class, as defined by Sections 28020 and 28037, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member and thereafter the alternate retired member shall be elected by the retired members of the association in the same manner and at the same time as the eighth member is elected.

The

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy for the remainder of the eighth member's term of office. ~~The alternate~~

(c) *Except as provided in subdivision (b), the alternate retired member shall be entitled to the same rights and privileges and shall have the same responsibilities and access to closed sessions as the eighth member. ~~The alternate~~ alternate retired member may hold positions on committees of the board independent of the eighth member and may participate in the deliberations of the board or ~~its committees~~ any of its committees to which the alternate retired member has been appointed whether or not the eighth member is present.*

~~The~~
(d) The alternate retired member shall be entitled to the same compensation as the eighth member for attending a meeting, pursuant to Section 31521, whether or not the eighth member is in attendance at those meetings. ~~In~~

(e) (1) In the event that this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate seventh member shall not sit and act for the ~~eighth retired~~ member, except as described in ~~subdivision (b)~~ paragraph (2).

~~(b)~~
(2) If both the eighth member and the alternate retired member are not attending a meeting, the alternate seventh member may sit and act for the eighth member as described in Section 31520.1.

SEC. 4. Section 31520.4 of the Government Code is amended to read:

31520.4. In any county with a board of retirement composed of nine members pursuant to Section 31520.1, if the second, third, seventh, or alternate *seventh* member of the board is injured or killed while performing his or her duties as a member of the board, that member shall be deemed to have been acting in the course and scope of his or her duties as an employee of the county or district employing the member, for the limited purpose of determining eligibility for workers' compensation benefits or disability or death benefits from the retirement system.

1 This section shall not be operative in any county until the board
2 of supervisors, by resolution adopted by a majority vote, makes
3 this section operative in that county.

4 ~~SEC. 4.~~

5 SEC. 5. Section 31520.5 of the Government Code is amended
6 to read:

7 31520.5. (a) Notwithstanding Section 31520.1, in any county
8 subject to Articles 6.8 (commencing with Section 31639) and 7.5
9 (commencing with Section 31662), the board of retirement may,
10 by majority vote, appoint, from a list of nominees submitted by a
11 qualified retiree organization, an alternate retired member to the
12 office of the eighth member, who shall serve until the expiration
13 of the current term of the current eighth member. Thereafter, the
14 alternate retired member shall be elected separately by the retired
15 members of the association in the same manner and at the same
16 time as the eighth member is elected. An organization shall be
17 deemed to be a “qualified retiree organization” for purposes of
18 this subdivision if a majority of the members of the organization
19 are retired members of the system.

20 (b) The term of office of the alternate retired member shall run
21 concurrently with the term of office of the eighth member. The
22 alternate retired member shall vote as a member of the board only
23 in the event the eighth member is absent from a board meeting for
24 any cause. If there is a vacancy with respect to the eighth member,
25 the alternate retired member shall fill that vacancy for the
26 remainder of the eighth member’s term of office. ~~The~~

27 (c) *Except as otherwise provided in this section, the* alternate
28 retired member shall be entitled to the same rights and privileges
29 and shall have the same responsibilities and access to closed
30 sessions as the eighth member.

31 ~~(e)~~

32 (d) The alternate retired member may hold positions on
33 committees of the board independent of the eighth member and
34 may participate in the deliberations of the board or ~~its committees~~
35 *any of its committees to which the alternate retired member has*
36 *been appointed* whether or not the eighth member is present.

37 ~~(d)~~

38 (e) The alternate retired member shall be entitled to the same
39 compensation as the eighth member for attending a meeting,

1 pursuant to Sections 31521 and 31521.1, whether or not the eighth
2 member is in attendance at those meetings.

3 (e)

4 (f) (1) If this section is made applicable in any county, by the
5 appointment of an alternate eighth member, the alternate seventh
6 member shall not sit and act for the eighth member, except as
7 described in paragraph (2).

8 (2) If both the eighth member and the alternate retired member
9 are not attending a meeting, the alternate seventh member may sit
10 and act for the eighth member as described in Section 31520.1.

11 ~~SEC. 5.~~

12 ~~SEC. 6.~~ Section 31523 of the Government Code is repealed.

13 ~~SEC. 6.~~

14 ~~SEC. 7.~~ Section 31523 is added to the Government Code, to
15 read:

16 31523. (a) In the event of a vacancy in the second, third,
17 seventh, eighth, or alternate seventh member position on the board
18 of retirement, the board shall cause an election to fill the vacancy
19 to be held ~~within 90 days of the date the vacancy occurs~~ *at the*
20 *earliest possible date*, except as provided in Sections 31520.3 and
21 31520.5. The vacancy in the second, third, or eighth member
22 position on the board of retirement shall be filled for the duration
23 of the current term except that, if the remaining portion of the
24 current term is six months or less on the date of the election,
25 concurrent elections may be held to fill the vacancy for the
26 remainder of the current term and to fill the position for the
27 succeeding term. With respect to a vacancy in the seventh member
28 position, candidates shall be a safety member from a group which
29 is not represented by an incumbent alternate seventh member. With
30 respect to the alternate seventh member position, the candidates
31 shall be limited to the group under Sections 31470.2 or 31470.4,
32 or any other eligible safety member in a county if there is no
33 eligible candidate from the groups under Sections 31470.2 and
34 31470.4 that is not represented by an incumbent seventh board
35 member. The successful candidate shall serve for the duration of
36 the current term.

37 (b) If there is a vacancy with respect to the alternate retired
38 member, the board of retirement shall, by majority vote, appoint
39 a replacement alternate member in the same manner as prescribed
40 in Sections 31520.3 and 31520.5 for the initial appointment of an

1 alternate retired member, who shall serve until the expiration of
2 the current term of the current eighth member.

3 (c) If an election has been called on the expiration of the term
4 of office of any member or alternate member, or to fill a vacancy
5 for the second, third, seventh, eighth, or alternate seventh member
6 of a board of retirement, and only one candidate has been duly
7 nominated in accordance with the rules established for the holding
8 of that election, the board of supervisors shall order that no election
9 be held and shall direct the clerk to cast a unanimous ballot in
10 favor of the candidate.

11 ~~SEC. 7.~~

12 *SEC. 8.* Section 31523.1 is added to the Government Code, to
13 read:

14 31523.1. (a) In the event of a vacancy in the second, third,
15 fourth, or eighth member position on a board of investments
16 established pursuant to Section 31520.2, ~~an election shall be called~~
17 ~~within 90 days of the date the vacancy occurs~~ *the board of*
18 *investments shall cause an election to be held at the earliest*
19 *possible date* to fill the vacancy. The vacancy in the second, third,
20 fourth, or eighth member position shall be filled for the duration
21 of the current term except that, if the remaining portion of the
22 current term on the date of the election is six months or less,
23 concurrent elections may be held to fill the vacancy for the
24 remainder of the current term and to fill the position for the
25 succeeding term.

26 (b) If an election has been called on the expiration of the term
27 of office of any member, or to fill a vacancy for the second, third,
28 fourth, or eighth member position of a board of investments, and
29 only one candidate has been duly nominated in accordance with
30 the rules established for the holding of that election, the board of
31 supervisors shall order that no election be held and shall direct the
32 clerk to cast a unanimous ballot in favor of the candidate.